REMARKS

Claims 1-17 are all the claims presently pending in the application. Claims 1, 5-6 and

11-13 are amended to more clearly define the invention. Claims 1, 5-6 and 11-13 are

independent.

These amendments are made only to more particularly point out the invention for the

Examiner and not for narrowing the scope of the claims or for any reason related to a

statutory requirement for patentability.

Applicant also notes that, notwithstanding any claim amendments herein or later

during prosecution, Applicant's intent is to encompass equivalents of all claim elements.

Claims 1, 5-6, and 11-13 stand rejected under the judicially created doctrine of

obviousness-type double patenting as being unpatentable over claims 1-7 of Flavin (U.S.

Patent No. 6,005,603). Claims 1-7 and 9-17 stand rejected under 35 U.S.C. § 102(e) as being

anticipated by the Hendricks, et al. reference (U.S. Patent No. 5,798,785). Claim 8 stands

rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hendricks, et al. reference,

in view of the Menard, et al. reference (U.S. Patent No. 6,061,056).

These rejections are respectfully traversed in the following discussion

I.   THE CLAIMED INVENTION

The claimed invention is directed to a segment announcement receiver that includes a

receiver section and a controller. The receiver section receives a signal carrying one or more

content streams and one or more announcements. Each of the announcements corresponds to

a content being provided on the content streams. Each of the announcements includes a

description about the corresponding content in the content streams, a time at which the

corresponding content is transmitted on the signal, and a content identifier. Each of the

announcements was created by a party other than the broadcaster. The controller <u>compares</u>

<u>the announcements to a filter record</u> and <u>alters the presentation of the content stream in</u>

<u>accordance with at least one user preference</u> for altering the presentation when the

comparison of the announcements to the filter record indicates a <u>correspondence between an</u>

<u>announcement and the at least one user preference for altering the presentation in the filter</u>

<u>record</u>.

As explained in the present specification at, for example, page 7, lines 14-17 and page

11, line 8 through page 13, line 13, a viewer is able to control the presentation of the content

stream by providing preferences in a filter record which indicates a presentation type for

content which corresponds with a matching announcement. In this manner, the viewer is able

to control the presentation of the content.

The present invention enables a viewer to set preferences in the filter record which

<u>filters the announcements</u> to determine <u>whether and how</u> <u>the presentation</u> of the broadcast

content <u>is altered</u>. Therefore, in comparison with other systems, which alter the presentation

in accordance with all of the announcements, the viewer is capable of setting preferences

which alter the presentation of the content only with respect to <u>selected types of</u>

<u>announcements</u> and may further determine <u>how the presentation is altered</u> when a selected

type of announcement is received by providing a <u>filter record</u>.

II.   THE DOUBLE PATENTING REJECTION

The Examiner alleges that claims 1, 5-6 and 11-13 are obvious over claims 1 and 3-7

of U.S. Patent No. 6,005,603. Applicant submits that the claims of the patent do not teach the

limitations of the present claims.

Specifically, the patent claims teach that the announcements must be created by <u>a</u>

<u>party other than the broadcaster</u>. In contrast, the claims of the present application do not

require that the announcements be created by a <u>third party</u>. Thus, the patent claims do not

teach that the announcements have to be created by a <u>third party</u>. Therefore, the claims of the

patent do not teach the limitations of the application claims. Applicant respectfully requests

withdrawal of this rejection.

III.   THE PRIOR ART REJECTIONS

A.   The 102(e) Hendricks et al. reference rejection

Regarding the rejection of claims 1-7 and 9-17, the Examiner alleges that the

Hendricks et al. reference teaches the claimed invention. Applicant submits, however, that

there are elements of the claimed invention which are neither taught nor suggested by the

Hendricks et al. reference.

The Hendricks et al. reference does not teach or suggest the features of the present

invention including: 1) a controller that <u>compares the announcements to a filter record;</u> and 2)

<u>that alters the presentation of the content stream in accordance with a user preference</u> when

the comparison of the announcement to the filter record indicates a correspondence between

an announcement and the filter record.

The Examiner alleges that the microprocessor 602 of the Hendricks et al. reference

reads on the controller. However, the Examiner appears to <u>ignore the language recited by the</u>

<u>present claims</u>.

The claims do not just recite "a controller," rather, the claims recite:

a controller that:

    1) <u>compares the announcements to a filter record</u>; and

    2) <u>alters the presentation of the content</u> when the announcement corresponds

to the filter record.

The alteration to the presentation of the content is instructed in the corresponding

filter record using a user preference for altering the presentation.

Contrary to the Examiner's allegations, the Hendricks et al. reference does not teach

or suggest that the microprocessor 602 <u>compares announcements</u> to a filter record and <u>alters</u>

<u>the presentation of the content</u> when the announcement corresponds to the filter record, let

alone altering the presentation <u>based upon a user preference</u>.

Indeed, the Hendricks et al. reference has <u>absolutely nothing to do with altering the</u>

<u>presentation of content</u> based upon a user's preference.

Rather, the Hendricks et al. reference is directed to a "TERMINAL FOR

<u>SUGGESTING PROGRAMS</u> OFFERED ON A TELEVISION PROGRAM DELIVERY

SYSTEM" (emphasis added, see Title). The Hendricks et al. reference discloses a

"reprogrammable set top terminal for a television program delivery system <u>which suggests</u>

<u>programs</u> . . . selecting and displaying <u>programs to suggest</u> to subscribers for viewing . . .

selecting <u>programs to suggest</u> to a subscriber." (Emphasis added, see Abstract).

The Hendricks et al. reference is specifically directed to addressing the lack of a

"method of managing the program choices" (col. 1, lines 45-46). "The problem is that TV

programming is not being presented to consumers in a user friendly manner" (col. 2, lines 12-

15). "What is needed is an economical system which can present television programs

through a user friendly interface which <u>allows the consumer to easily select from among the</u>

many program choices . . . that <u>assists the consumer with his program selection</u> . . .for

<u>presenting the program choices</u> . . . . a system that can be remotely reprogrammed" (emphasis

added, col. 2, lines 21-31). See also (col. 2, lines 39-40, 42-43, and 64-65).

In other words, the Hendricks et al. reference is concerned with presenting <u>program</u>

<u>choices</u> in a manner which is user friendly.

The Hendricks et al. reference is not at all concerned with <u>altering the presentation of</u>

<u>the content</u> of these programs, let alone with providing <u>a filter record which includes user</u>

<u>preferences for altering the presentation of content</u>. Rather, the Hendricks et al. reference is

concerned with providing a method that makes it <u>easier for a consumer to decide which</u>

<u>programs that the user wants to watch</u>.

For example, the Hendricks et al. reference discloses using "responsive" methods

and/or "intelligent" methods for suggesting programs.

The Hendricks et al. reference discloses that a "responsive" method of analysis

requires a subscriber to respond to a series of questions or selected subjective adjectives from

program driven menus, storing the responses in a personal profile and then searching a

program database consisting of abstracts of a multitude of programs <u>to generate a list of</u>

<u>suggested programs</u> and <u>displaying that list of suggest programs</u> to the user (col. 3, lines 5-

17).

The Hendricks et al. reference also discloses an "intelligent" method which "learns"

the subscribers viewing habits by analyzing historical data that may be collected passively

and stored in a personal profile. The Hendricks et al. reference then discloses analyzing the

personal profile <u>to suggest groups of programs</u> and <u>displaying the groups of programs</u> to the

subscriber (col. 3, lines 18-27).

In this manner, the Hendricks et al. reference discloses a method for <u>suggesting</u>

<u>programs</u> based upon a personal profile.

The Hendricks et al. reference does not teach or suggest <u>altering the presentation</u> of

these programs at all. Rather, the Hendricks et al. reference is only concerned with <u>providing</u>

<u>a list of suggested programs</u> to the subscriber.

In stark contrast, the present invention is directed to <u>altering the presentation of</u>

<u>content</u> (i.e. presentation of the programs) based upon user preferences which are stored in a

filter record. The present invention receives announcements which include information about

the content being broadcast and the controller of the present invention compares these

announcements to filter records. If the controller determines that an announcement matches a

filter record, then the controller alters the presentation of the content based upon the user

preference for altering the presentation of the content in the corresponding filter record.

The Examiner also alleges that the personal profile disclosed by the Hendricks et al.

reference reads on the filter record. However, as explained above, and contrary to the

Examiner's allegation, the personal profile has <u>absolutely nothing to do with the presentation</u>

<u>of content</u>, let alone <u>a filter record that includes a user preference for altering the presentation</u>

<u>of content</u>.

Rather, the personal profile disclosed by the Hendricks et al. reference is directed to a

collection of data which is used <u>to generate a list of suggested programs</u>. The personal profile

may contain responses to a variety of questions or a selection of adjectives (col. 3, lines 5-8) a

subscriber's preferences in mood, type of program, category/genre, actor, year preference and

standard rating (col. 3, lines 10-14), and passively collected historical viewing data (col. 3,

lines 18-20). Therefore, contrary to the Examiner's allegation, the personal profile disclosed

by the Hendricks et al. reference has absolutely nothing to do with the <u>presentation of content</u>, let alone <u>a filter record that includes a user preference for altering the presentation of content</u>.

In summary, the present invention enables a viewer to set preferences in the filter record which <u>filters the announcements</u> to determine <u>whether and how</u> <u>the presentation</u> of the broadcast content <u>is altered</u>. Therefore, in comparison with other systems, which alter the presentation in accordance with all of the announcements, the viewer is capable of setting preferences which alter the presentation of the content only with respect to <u>selected types of announcements</u> and may further determine <u>how the presentation is altered</u> when a selected type of announcement is received by providing a <u>filter record</u>.

Therefore, the Hendricks et al. reference does not teach or suggest each and every element of the claimed invention. Therefore, the Examiner is respectfully requested to withdraw this rejection of claims 1-7 and 9-17.

B.   The Hendricks et al. reference in view of the Menard et al. reference

Regarding claim 8, the Examiner alleges that the Menard et al. reference would have been combined with the Hendricks et al. reference to form the claimed invention. Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

Applicant submits that these references would not have been combined as alleged by the Examiner. Indeed, the references are directed to completely different matters and problems.

Specifically, as explained above, the Hendricks et al. reference is directed to addressing the lack of a "method of managing the program choices" (col. 1, lines 45-46).

"The problem is that TV programming is not being presented to consumers in a user friendly

manner" (col. 2, lines 12-15). "What is needed is an economical system which can present

television programs through a user friendly interface which <u>allows the consumer to easily</u>

<u>select from among the many program choices</u> . . . that <u>assists the consumer with his program</u>

<u>selection</u> . . .for <u>presenting the program choices</u> . . . . a system that can be remotely

reprogrammed" (emphasis added, col. 2, lines 21-31). See also (col. 2, lines 39-40, 42-43,

and 64-65).

In other words, the Hendricks et al. reference is concerned with presenting <u>program</u>

<u>choices</u> in a manner which is user friendly.

In stark contrast, the Menard et al. reference is specifically directed to a television

monitoring system with automatic selection of program material of interest and subsequent

display (title). More specifically, the Menard et al. reference is directed to <u>monitoring</u>

<u>broadcasts and detecting content of particular interest to a user and storing the content</u> (col. 1,

line 66 - line 19). Therefore, one of ordinary skill in the art what was concerned with the

problem of <u>presenting program choices in a user friendly manner</u> as disclosed by the

Hendricks et al. reference would not have referred to the Menard et al. reference because it is

directed to the completely unrelated and different problem of <u>monitoring broadcasts,</u>

<u>detecting content of particular interest to a user and storing the content</u>. Thus, the references

would <u>not</u> have been combined, <u>absent hindsight</u>.

Further, Applicant submits that the Examiner can point to no motivation or suggestion

in the references to urge the combination as alleged by the Examiner. Indeed, the Examiner

does not even support the combination by identifying a reason for combining the references.

The Examiner alleges that "it would have been obvious to one of ordinary skill in the

art at the time the invention was made to modify Hendricks (sic) to incorporate a feature as

taught by Menard et al. (sic) in order to reduce labor cost at the operation center and provide

an (sic) desired data to user."

However, contrary to the Examiner's allegation, the motivations of reducing labor

cost and providing desired data as disclosed by the Menard et al. reference is not applicable to

the Hendricks et al. reference.

Rather, the Mendard et al. reference discloses that it is very labor intensive to

manually monitor broadcasts (see col. 1, lines 24-36) and that an automated system for

monitoring broadcasts is desired.

Further, the motivation of providing "desired data to a user" as disclosed by the

Menard et al. reference is also not applicable to the Hendricks et al. reference. Rather, as

explained above, the "desired data" which is provided by the system disclosed by the Menard

et al. reference is the program data that is stored when the program compares favorably to the

user defined criteria (col. 1, line 66 - col. 2, line 18).

In stark contrast, the data that is "desired" by the Hendricks et al. reference is a list of

suggested programs (col. 2, lines 38-47). Therefore, the motivation of providing the "desired

data" of stored program data as disclosed by the Menard et al. reference is completely

inapplicable to and unrelated to the "desired data" of a list of suggested programs as disclosed

by the Menard et al. reference.

Moreover, even assuming arguendo that one of ordinary skill in the art would have

been motivated to combine these references, the combination would not teach or suggest each

and every element of the claimed invention.

As explained previously, the Hendricks et al. reference does not teach or suggest the

features of the present invention including: 1) a controller that <u>compares the announcements</u>

<u>to a filter record;</u> 2) <u>that alters the presentation of the content stream in accordance with a</u>

<u>user preference</u> when the comparison of the announcement to the filter record indicates a

correspondence between an announcement and the filter record.

The Menard et al. reference does not remedy these deficiencies.

Rather, the Menard et al. reference discloses inputting user selected criteria,

identifying program content of interest to the user based upon that criteria and storing the

program content which matches the criteria (col. 1, line 66 - col. 2, line19).   The Menard et

al. reference does not teach or suggest altering the presentation of content, let alone a filter

record that includes user preferences for altering presentation of content.

In summary, the present invention enables a viewer to set preferences in the filter

record which <u>filters the announcements</u> to determine <u>whether and how</u> <u>the presentation</u> of the

broadcast content <u>is altered</u>. Therefore, in comparison with other systems, which alter the

presentation in accordance with all of the announcements, the viewer is capable of setting

preferences which alter the presentation of the content only with respect to <u>selected types of</u>

<u>announcements</u> and may further determine <u>how the presentation is altered</u> when a selected

type of announcement is received by providing a <u>filter record</u>.

Therefore, the Examiner is respectfully requested to withdraw the rejection of claim 8.

III.   FORMAL MATTERS AND CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits

that claims 1-20, all the claims presently pending in the Application, are patentably distinct

over the prior art of record and are in condition for allowance. The Examiner is respectfully

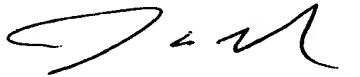requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the Application to be other than in condition for allowance,

the Examiner is requested to contact the undersigned at the local telephone number listed

below to discuss any other changes deemed necessary in a <u>telephonic or personal interview</u>.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit

any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date: __10/2/03__

James E. Howard
Registration No. 39,715

McGinn & Gibb, PLLC
8321 Old Courthouse Rd., Suite 200
Vienna, Virginia 22182
(703) 761-4100
Customer No. 21254